

## Pension Benefit Guaranty Corporation

## §4219.17

withdrawal liability. With respect to reallocation liability, the plan sponsor shall follow the rules prescribed in paragraph (f)(1) of this section.

(g) *Review of mass withdrawal liability determinations.* Determinations of mass withdrawal liability made pursuant to this subpart shall be subject to plan review under section 4219(b)(2) of ERISA and to arbitration under section 4221 of ERISA within the times prescribed by those sections. Matters that relate solely to the amount of, and schedule of payments for, an employer's initial withdrawal liability are not matters relating to the employer's liability under this subpart and are not subject to review pursuant to this paragraph.

(h) *Cessation of withdrawal liability obligations.* If the plan sponsor of a terminated plan distributes plan assets in full satisfaction of all nonforfeitable benefits under the plan, the plan sponsor's obligation to impose and collect liability, and each employer's obligation to pay liability, in accordance with this subpart ceases on the date of such distribution.

(i) *Determination that a mass withdrawal has not occurred.* If a plan sponsor determines, after imposing mass withdrawal liability pursuant to this subpart, that a mass withdrawal has not occurred, the plan sponsor shall refund to employers all payments of mass withdrawal liability with interest, except that a plan sponsor shall not refund payments of liability for *de minimis* amounts to an employer that remains liable for such amounts under §4219.18. Interest shall be credited at the interest rate prescribed in subpart C and shall accrue from the date the payment was received by the plan until the date of the refund.

### § 4219.17 Filings with PBGC.

(a) *Filing requirements.* The plan sponsor shall file with PBGC a notice that a mass withdrawal has occurred and separate certifications that determinations of redetermination liability and reallocation liability have been made and notices provided to employers in accordance with this subpart.

(b) *Who shall file.* The plan sponsor or a duly authorized representative acting on behalf of the plan sponsor shall sign

and file the notice and the certifications.

(c) *When to file.* A notice of mass withdrawal for a plan from which substantially all employers withdraw pursuant to an agreement or arrangement to withdraw shall be filed with the PBGC no later than 30 days after the mass withdrawal valuation date. A notice of mass withdrawal termination shall be filed within the time prescribed for the filing of that notice in part 4041A, subparts A and B, of this chapter. Certifications of liability determinations shall be filed with the PBGC no later than 30 days after the date on which the plan sponsor is required to have provided employers with notices pursuant to §4219.16.

(d) *Where to file.* The notice and certifications may be sent by mail or submitted by hand during normal working hours to Reports Processing, Insurance Operations Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026.

(e) *Filing date.* For purposes of paragraph (c)—

(1) The notice is considered filed on the date of the postmark stamped on the cover in which the notice is mailed if—

(i) The postmark was made by the United States Postal Service; and

(ii) The notice was mailed postage prepaid, properly packaged and addressed to the PBGC.

(2) If both conditions described in paragraph (e)(1) are not met, the notice is considered filed on the date it is received by the PBGC, except that notices received after regular business hours are considered filed on the next regular business day.

(f) *Contents of notice of mass withdrawal.* If a plan terminates by the withdrawal of every employer, a notice of termination filed in accordance with part 4041A, subparts A and B, of this chapter shall satisfy the requirements for a notice of mass withdrawal under this subpart. If substantially all employers withdraw from a plan pursuant to an agreement or arrangement to withdraw, the notice of mass withdrawal shall contain the following information:

(1) The name of the plan.

(2) The name, address and telephone number of the plan sponsor and of the duly authorized representative, if any, of the plan sponsor.

(3) The nine-digit Employer Identification Number (EIN) assigned by the IRS to the plan sponsor and the three-digit Plan Identification Number (PIN) assigned by the plan sponsor to the plan, and, if different, the EIN or PIN last filed with the PBGC. If no EIN or PIN has been assigned, the notice shall so indicate.

(4) The mass withdrawal valuation date.

(5) A description of the facts on which the plan sponsor has based its determination that a mass withdrawal has occurred, including the number of contributing employers withdrawn and the number remaining in the plan, and a description of the effect of the mass withdrawal on the plan's contribution base.

(g) *Contents of certifications.* Each certification shall contain the following information:

(1) The name of the plan.

(2) The name, address and telephone number of the plan sponsor and of the duly authorized representative, if any, of the plan sponsor.

(3) The nine-digit Employer Identification Number (EIN) assigned by the IRS to the plan sponsor and the three-digit Plan Identification Number (PIN) last assigned by the plan sponsor to the plan, and, if different, the EIN or PIN filed with the PBGC. If no EIN or PIN has been assigned, the notice shall so indicate.

(4) Identification of the liability determination to which the certification relates.

(5) A certification, signed by the plan sponsor or a duly authorized representative, that the determinations have been made and the notices given in accordance with this subpart.

(6) For reallocation liability certifications—

(i) A certification, signed by the plan's actuary, that the determination of unfunded vested benefits has been done in accordance with part 4281, subpart B; and

(ii) A copy of plan rules, if any, adopted pursuant to § 4219.15(d).

(h) *Additional information.* In addition to the information described in paragraph (g) of this section, the PBGC may require the plan sponsor to submit any other information the PBGC determines it needs in order to monitor compliance with this subpart.

**§ 4219.18 Withdrawal in a plan year in which substantially all employers withdraw.**

(a) *General rule.* An employer that withdraws in a plan year in which substantially all employers withdraw from the plan shall be liable to the plan for *de minimis* amounts if the employer's initial withdrawal liability was reduced pursuant to section 4209(a) or (b) of ERISA.

(b) *Amount of liability.* An employer's liability for *de minimis* amounts under this section shall be determined pursuant to § 4219.13.

(c) *Plan sponsor's obligations.* The plan sponsor of a plan that experiences a withdrawal described in paragraph (a) shall—

(1) Determine and collect initial withdrawal liability of every employer that has completely or partially withdrawn, in accordance with sections 4201 and 4202 of ERISA;

(2) Notify each employer that is or may be liable under this section, in accordance with paragraph (d) of this section;

(3) Within 90 days after the end of the plan year in which the withdrawal occurred, determine, in accordance with paragraph (b) of this section, the liability of each withdrawing employer that is liable under this section;

(4) Notify each liable employer, in accordance with paragraph (e) of this section, of the amount of its liability under this section, demand payment of and collect that liability; and

(5) Certify to the PBGC that determinations of liability have been completed, in accordance with paragraph (g) of this section.

(d) *Notice of withdrawal.* Within 30 days after the end of a plan year in which a plan experiences a withdrawal described in paragraph (a), the plan sponsor shall notify in writing each employer that is or may be liable under this section. The notice shall specify the plan year in which substantially all